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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/694,554	10/23/2000	Richard O. Moore JR.	G-0004	9964

7590 01/22/2004  
BURNS, DOANE, SWECKER & MATHIS  
P.O. BOX 1404  
ALEXANDRIA, VA 22313-1404

EXAMINER

GRIFFIN, WALTER DEAN

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/694,554

Applicant(s)

MOORE, RICHARD O. 

Examiner

Walter D. Griffin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-4, 7-11, 16-18 and 24-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4, 7-11, 16-18 and 24-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 30, 2003 has been entered.

### *Response to Amendment*

The rejections under 35 USC 102(b) and 103 as described in the Office Action mailed on August 1, 2003 have been withdrawn in view of the amendment filed on October 31, 2003.

New rejections follow.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24, 2, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Derr et al. (US 4,080,397).

The Derr reference discloses a process for hydroconverting a Fischer-Tropsch product that contains oxygenates and olefinic hydrocarbons. These oxygenates and olefinic hydrocarbons would necessarily include the specific compounds of claim 2. The process comprises preheating the feed and then admixing hydrogen with the feed to form the feed to the hydroconversion zone. Heating temperatures are within the range of claim 29. The feed is then hydroconverted. The reference discloses that some hydrogen may be added to the feed upstream of the furnace to help reduce or minimize fouling of the furnace tubes or coils. This hydrogen addition is necessarily not under hydroconversion conditions. See column 1, lines 10-13; column 2, lines 5-10, 24-40, and 64-68; column 3, lines 1-11 and 65-68; column 4, lines 1-6; and column 11, lines 5-50.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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Claims 3, 4, 7-11, 16-18, 25-28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Derr et al. (US 4,080,397).

The Derr reference discloses a process for hydroconverting a Fischer-Tropsch product that contains oxygenates and olefinic hydrocarbons. These oxygenates and olefinic hydrocarbons would necessarily include the specific compounds of claim 2. The process comprises preheating the feed and then admixing hydrogen with the feed to form the feed to the hydroconversion zone. Heating temperatures are within the range of claim 29. The feed is then hydroconverted. The reference discloses that some hydrogen may be added to the feed upstream of the furnace to help reduce or minimize fouling of the furnace tubes or coils. This hydrogen addition is necessarily not under hydroconversion conditions. See column 1, lines 10-13; column 2, lines 5-10, 24-40, and 64-68; column 3, lines 1-11 and 65-68; column 4, lines 1-6; and column 11, lines 5-50.

The Derr reference does not disclose the hydrogen amounts of claims 25-28, does not disclose the temperatures of claim 30, does not disclose the amounts of olefins or oxygenates as in claims 3, 4, and 7-10, does not disclose the boiling range of the hydrocarbon as in claim 11, and does not disclose the hydrogen sources.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Derr process by using the claimed hydrogen amounts because one would use only the amount necessary to provide the disclosed effect of minimization of fouling.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Derr process by using feeds having the claimed amounts of olefins or oxygenates and boiling within the claimed range because these feeds are

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chemically and physically similar to the feeds disclosed by Derr and therefore would be expected to be effectively treated in the process of Derr.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Derr by utilizing the claimed hydrogen sources because the process will function effectively regardless of the source of the hydrogen as long as sufficient hydrogen is provided.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Derr by utilizing the claimed process temperatures because one would adjust temperatures to values including those claimed as long as effective hydroconversion results.

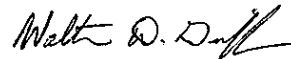
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter D. Griffin whose telephone number is (571) 272-1447. The examiner can normally be reached on Monday-Friday 6:30 to 4:00 with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



Walter D. Griffin  
Primary Examiner  
Art Unit 1764

WG

January 12, 2004